

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking on the Commission's Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities' Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations.

Rulemaking 12-06-013  
(Filed June 21, 2012)

**AMENDED  
REPLY COMMENTS  
OF THE OFFICE OF RATEPAYER ADVOCATES ON THE  
ALTERNATE PROPOSED DECISION OF COMMISSIONER FLORIO**

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, the Office of Ratepayer Advocates ("ORA") hereby submits its reply comments on the "Alternate Proposed Decision of Commissioner Florio ("Alternate Proposed Decision" or "APD") in the above-captioned matter. ORA supports the Alternate Proposed Decision. ORA responds to the opening comments of PG&E, SCE, SDG&E, and the CAISO.

**I. FIXED CHARGES**

**A. Public Policy Criteria**

SCE argues that the APD's conclusion that a fixed charge is contrary to public interest and "cannot be squared with the fact that the Commission has authority under Section 739.9 to adopt reasonable fixed charges."<sup>1</sup> SCE mischaracterizes the intent of AB 327, which amends the PU Code to allow fixed charges but it does not find them reasonable. It leaves that decision up to the Commission. SCE argues that "the APD's rash removal of fixed charges is contrary to the recommendation of parties," who say that customers should be given a choice whether or not to have them.<sup>2</sup> The APD declares that fixed charges are unreasonable largely based on marginal cost grounds, whereas ORA's argument for providing choice was based on how competitive markets offer varying pricing options that recover their costs in different ways. ORA's default

<sup>1</sup> SCE Comments, p. 20.

<sup>2</sup> SCE Comments, pp. 22-23.

rate would not have fixed charges and thus is consistent with the APD's logic. The IOUs, including SCE, do not support giving customers the choice of whether or not to have fixed charges in their default rate proposals.

SCE states that the "APD's sweeping conclusion is extreme, erroneous, and inconsistent."<sup>3</sup> ORA disagrees. In fact the APD's decision to continue to prohibit fixed charges is well defended, but the PD's decision to allow fixed charges is not supported by the record. As ORA stated in its opening comments on the PD, a finding that fixed charges are reasonable or unreasonable cannot be made without investigating the marginal cost foundation of such a charge. The APD states "Fixed or sunk costs are irrelevant to a marginal cost analysis, which focuses on the forward-looking (avoidable) costs of the next unit of consumption of a product or service." It goes on to state "Fixed costs are not considered in a marginal cost analysis because they do not change based on increases or decreases in current consumption."<sup>4</sup> The record contains necessary evidence for the APD's rejection of fixed charges, including that fixed charges are not consistent with marginal cost ratemaking, particularly if the new customer only ("NCO") method for calculating marginal costs is adopted.

SCE argues that the APD "radically ...deviates from very current Commission policy as well as long-established decisions on fixed charges."<sup>5</sup> In fact, longstanding Commission policy is for no fixed charges for the large IOUs. The last time the Commission implemented more than a de minimus fixed charge for a large electric IOU – SDG&E in the 1990s – the charges were roundly rejected by customers and removed.

SCE says that the PD's and APD's authorization of a \$10 minimum bill implies that a \$10 fixed charge would be reasonable.<sup>6</sup> This is incorrect. As ORA testified, a minimum bill and fixed charge are conceptually different. A minimum bill recovers costs that otherwise would be stranded in the absence of a minimum bill, and such stranded costs are sunk and not marginal.<sup>7</sup>

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<sup>3</sup> SCE Comments, p. 21.

<sup>4</sup> APD, pp. 188-189.

<sup>5</sup> Id.

<sup>6</sup> SCE Comments, p. 23.

<sup>7</sup> Ex. ORA-101, p. 2-21.

SDG&E justifies fixed charges because some costs are incurred to maintain service.<sup>8</sup> To characterize them as costs “to maintain service” clearly puts them in the category of sunk embedded costs, not marginal costs. A minimum bill would recover those costs. The fact that a minimum bill would only recover \$2 million in additional revenues for SDG&E is irrelevant because the ones not paying it are very small customers below the minimum bill threshold. For the vast majority of the remaining customers, they do pay those costs in their variable rates and they are not stranded.

## **B. Following What Other Utilities Do**

The IOUs state that the APD does not consider the many decisions by public utilities commissions throughout the country that routinely have adopted fixed charges.<sup>9</sup> What PG&E, SCE, and SDG&E fail to clarify is that most California municipal utilities, California water utilities, and electric utilities in other states use embedded cost ratemaking. ORA testified about how fixed charges can be reconciled with embedded cost ratemaking but not with marginal cost ratemaking.<sup>10</sup>

~~SCE complains that the three small California electric IOUs have fixed charges.<sup>11</sup> In actual fact, Bear Valley Electric Service does not have a fixed charge—so it’s only two of them. Further, SCE’s witness Mr. Garwaeki characterized SCE’s fixed charge as “*de minimis*.” So only really two out of six of the California IOUs have fixed charges, and those two have sales that only account for 1% to 2% of the total sales of all six IOUs.<sup>12</sup>~~

SCE states that even ORA and TURN went along with a fixed charge for Liberty Utilities<sup>13</sup> TURN described in its brief that this was done because of special circumstances that do not apply to SCE: “In prepared testimony, TURN explained that the fixed charge for Cal-Peco/Liberty Utilities was driven by the fact that the service territory is unique (compared to

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<sup>8</sup> SDG&E Comments, pp.6-7; PG&E Comments p. 15, SCE Comments, p. 21.

<sup>9</sup> PG&E Comments, p. 15.

<sup>10</sup> Ex. ORA-101, p. 2-5.

<sup>11</sup> SCE Comments, p. 21.

<sup>12</sup> ORA Reply Brief, p. 16.

<sup>13</sup> SCE Comments, p. 24.

the major IOUs) in that it includes significant numbers of vacation homes and does not provide a baseline allowance for these second homes.”<sup>14</sup>

### **C. Customer Reaction to a Fixed Charge**

SCE references the Hiner study to suggest that customers would accept a fixed charge.<sup>15</sup> The utility-commissioned Hiner study also showed that customers adversely reacted to customer charges in the conjoint analysis.<sup>16</sup> As stated in the APD, PG&E witness Pitcock agreed that the Hiner Study revealed that “a monthly service fee was not favorable.”<sup>17</sup> Moreover, customer testimonials at the public participation hearings paint a very different picture about whether customers are sanguine about a customer charge.

SDG&E states, “evidence in the record shows that customers are, in fact, familiar with the idea of a fixed charge, and are accepting of those charges on a number of their standard bills.”<sup>18</sup> The citation given is to SDG&E’s attorney cross-examining ORA’s witness Mr. Danforth about a variety of fixed charges related to sporting arenas, fitness clubs, amusement parks, and the internet. The fixed charges in these various venues are not comparable to the kind of fixed charges that the three IOUs seek in this proceeding. As ORA explained in its opening brief: “... the important thing is that for most of those there is no *residual obligation* if a customer does not partake of those good and services. For example, though movie theaters, amusement parks, and sporting events levy a fixed charge per visit, they do not levy some kind of annual charge like Costco that one must pay just in case one wants to do business with them.”<sup>19</sup>

### **D. Conservation**

SCE states that a fixed charge will not impair conservation because it only recovers 8% of the residential revenue requirement.<sup>20</sup> SCE fails to state that the fixed charge revenues constitute a much larger percentage of the bill for smaller customers. In fact, with a consolidated baseline

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<sup>14</sup> TURN Reply Brief, p. 33.

<sup>15</sup> SCE Comments, p. 25.

<sup>16</sup> ORA Opening Brief, p. 36.

<sup>17</sup> APD, p. 195.

<sup>18</sup> SDG&E Comments, p. 6.

<sup>19</sup> ORA Opening Brief, p. 35.

<sup>20</sup> SCE Opening Comments, p. 24.

approach, there is a direct tradeoff between the tier 1 rate and the fixed charge. Based on SCE's data response to an ALJ ruling before the PD was issued, the percentage of the bill represented by the fixed charge for a customer consuming at the baseline level is on the order of 18%.

## **II. RATE REFORM**

SCE and PG&E characterize the APD as only promoting the policy goal of conservation, and mistakenly conclude that the APD would continue the status quo for residential rates. They are wrong on both points.

### **A. Policy Goals**

The APD supports a variety of policy goals as it accomplishes significant rate reform. The APD moves forward in a way that places more emphasis on moderating bill impacts and customer acceptance in addition to conservation. ORA continuously has stressed these goals and has recommended moderation in the pace of rate reform. If the rate reform is too aggressive, there is a risk of customer backlash.

ORA proposed rules governing allowable rate increases for Tier 1 residential rates, and the APD adopts similar rules for all three IOUs. These will go a long way in moderating bill impacts for lower usage customers who already have experienced large increases from the Phase II rates that were implemented for summer 2014. These rules limit allowable increases for tier 1 rates to residential average rates ("RAR") increases plus 3% for the first two years, and RAR plus 5% after that. Revenue requirements increases between 2015 and 2019 are unknown, but will occur, and thus they need to be taken into account when examining the reasonableness of rate changes.

### **B. Significant Rate Reform**

SCE states that the APD would not result in rate reform,<sup>21</sup> and PG&E states that it would maintain the status quo.<sup>22</sup> SCE's and PG&E's statements are inaccurate, and they make unsubstantiated claims throughout their comments. It is clear that the APD makes significant progress, even though it does not go as far as the IOUs would have liked. The APD would move from four rate tiers to three rate tiers. It combines the current tier 2 with the current tier 3, and in

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<sup>21</sup> See SCE OC, p. 2, lines 10 to 12: "...the APD shuts down reform before it sees the light of day, arbitrarily singling out the large IOUs to the detriment of customers whom AB 327 sought to help."

<sup>22</sup> See PG&E OC, p. 2, lines 3 to 5.

the averaging process, increases the old tier 2 rate and reduces the old tier 3 rate. This ends the protected rate status for usage between 100% to 130% of baseline. Further, it makes the tier differentials far less steep, for it dramatically lowers the ratio of the highest tier rate to the lowest tier rates. When compared to November 2013 rates, before OIR Phase 2 rate changes for summer 2014, this ratio has decreased from 2.71 to 1.77 for PG&E, and from 2.47 to 1.77 for SCE.<sup>23</sup>

### **C. Bill Impacts**

The APD makes significant rate reform at a moderate pace that will reduce bill impacts and will likely be better accepted by customers. The rules for rate increases are especially important in limiting bill increases. When there are revenue requirements increases, these rules would moderate bills by placing a limit on allowable tier 1 rate increases and by increasing all other rates by an equal percent change. They also apply any revenue requirement decreases equally across the tiers. ORA strongly supports these rules that are intended to limit bill increases as rate reform proceeds.

In Opening Comments, SCE and PG&E provide incomplete information on bill impacts that is not useful in evaluating the APD. For example, on page 17 of its comments, SCE states that "...800,000 CARE customers reach Tier 3 in any given year." This does not show how much electricity a customer would consume in tier 3, which is important because a customer with one kWh in tier 3 would be counted as a tier 3 customer. Nor does it indicate how many months a customer would have tier 3 usage. Thus, this number would exaggerate the number of CARE customers who would consistently have high usage. On page 4 of its comments, PG&E provides an example of a hypothetical bill increase for a Kern County resident which does not contain sufficient information to verify it. ORA speculates that this example is for 2015 when 4

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<sup>23</sup> ORA understands that the 1.77 to 1.0 rate differential in the APD was derived by making tier 3 1.33 times larger than tier 2, which in turn is 1.33 times larger than tier 1. This would make the excess usage surcharge numerically (in cents/kWh) larger than the baseline credit. For example, if the unadjusted rate were 25 cents per kWh, the credit would be 6.2 cents/kWh while the surcharge would be 8.3 cents/kWh. This asymmetry is perhaps unintended by the APD and customers might question why the surcharge is larger than the credit. Commissioner Florio's office might consider modifying the APD to make the credit and surcharge symmetrical. Making the end goal 1.66 rather than 1.77 would get the tier differential more than 70% of the way toward the end goal of 1.20 that the utilities want – if one regards the starting point as the November 2013 rates.

rate tiers would remain and that what PG&E shows would not likely result after further rate reform and the movement to three rate tiers occurs.

Both SCE and PG&E imply that the APD would be harmful for customers in hot climate zones, but these claims are unsubstantiated. On page 19, SCE states:

The APD's rate design fails at being a graduated income tax for another obvious reason—it has a gaping loophole for low-usage coastal customers whose rates have been subsidized for years by inland families. In fact, wealthy customers who live alone or don't spend much time at home win under the APD, which rewards some affluent customer by charging them well below the cost to serve. The losers are customer with high usage for completely legitimate reasons, including the size of their families and their location in hot climate zones where home prices are more affordable, like the Inland Empire and Central Valley.

PG&E on page 3 misquotes the APD by omitting key words. The APD in fact states, “This volatility is felt most acutely in areas such as Central Valley where, *prior to our recent actions to mitigate upper tier rates*, a few hot summer days could cause a bill to double month over month.” PG&E omitted the bold, italicized phrase, which deceptively changes the meaning of the sentence by making it appear as if no progress has been made. In any case, both SCE and PG&E ignore the fact that hot areas have much higher baseline allowances than coastal areas as these allowances are calculated in part on average usage in a given baseline zone. Hot areas have more usage and thus they also have higher baseline allowances. Neither SCE nor PG&E have provided evidence that inland customers subsidize coastal customers or that the APD would do this.

#### **D. TOU Rates**

On pages 15 to 17, PG&E exaggerates the complexity of the APD's proposed default TOU rate with a baseline credit and an excess usage surcharge. PG&E compares the APD's TOU rates with the existing tiered E-6 and E-7 rates. The APD TOU rate should be much easier to understand since the overlay baseline credit and excess usage surcharge credits are shown simply as line item adjustments on a customer's bill. ORA disagrees that this TOU rate would be hard for customer's to understand if good outreach information were provided to customers

#### **E. Misleading Statements**

On page 11, PG&E states, “...the APD would give less consideration to consumer protection goals, such as equity, simplicity and understandability, and avoiding bill volatility due

to factors outside a customer's control, such as weather.” As noted above, the APD gives more consideration to the important consumer protection goal of moderating bill increases for the majority of SCE's and PG&E's customers. On page 9, PG&E misquotes the APD, which does not state that “...GHG costs under AB 32 are too low and therefore residential electric rates with steep tiers should be driven even higher than under AB 32.”

The APD does not state that its proposed TOU rate would not be understandable to customers as PG&E claims. (“Even the APD admits that such a multi-tiered TOU rate would not be understandable to customers.”)<sup>24</sup> The APD discusses the current tiered TOU rates for PG&E, and not the proposed TOU rates with baseline credits and excess usage surcharges that will appear as line items on customers' bills.<sup>25</sup>

### **III. CAISO'S CONCERN WITH EXCESS USAGE SURCHARGE**

ORA appreciates the importance that the CAISO assigns to TOU rates when it states that “...TOU and other dynamic rate structures that help flatten the load curve will play an important role in California's ability to create a reliable, low-carbon grid.”<sup>26</sup> ORA, however, does not agree with the CAISO's interpretation of the APD in regard to the effect of the excess consumption surcharge. The CAISO states that the surcharge “would increase the rates during periods of oversupply.” ORA reads the APD as applying the same surcharge to usage in all TOU periods once the trigger for this surcharge (200% of baseline usage) is reached. Thus, if the CAISO's proposed TOU structure, outlined in Attachment A of its comments, were adopted, the same surcharge would be added to the super off-peak period as would be added to the super on-peak period. Thus the cent/kWh rate differential between TOU periods would remain the same with or without the surcharge.

It is true that adding the surcharge to the fairly complex TOU rate design that the CAISO favors would make it even more complex. However, ORA and others believe it would be undesirable to implement such a complex rate design as the default rate when default TOU rates are first introduced in 2019. If, after customers have become accustomed to TOU rates, circumstances dictated transitioning to a more complex rate design resembling that in

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<sup>24</sup> PG&E Comments, p. 16.

<sup>25</sup> APD, p. 159.

<sup>26</sup> CAISO Opening Comments, p. 2.



Attachment A of the CAISO filing, there is nothing in the APD to prevent a future Commission from discontinuing the excess usage surcharge at that time. The tradeoff would have to be made between the relative importance of the oversupply issues and meeting GHG goals. One advantage of applying the surcharge in the short run is that it produces a more gradual transition to a two-tiered end state rate.

#### **IV. CONCLUSION**

For all the reasons discussed above, ORA supports the APD. It produces significant rate reform at a more moderate pace that would avoid excessive bill increases, especially to low usage customers. The APD also opposes the utilities' proposal for unnecessary residential fixed charges.

Respectfully submitted,

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